

## **Director’s Report and Recommendations**

### **Code Amendments – Jobs Initiative/Regulatory Reform**

#### **INTRODUCTION**

The recovery from the recession has been slow in Seattle as well as across the nation. To help residents, businesses and property owners, the City has taken many steps to help get people back to work. Mayor McGinn published the Seattle Jobs Plan in August 2010. Further, to state its intent and guide future action, the City Council adopted Resolution 31282 in March of this year. The resolution contains guiding principles for strengthening and growing Seattle's economy and creating jobs. Those principles include:

- Quality of life;
- Resilient and sustainable local economy;
- Collaboration and civic leadership;
- Hospitable and responsive business climate; and
- Infrastructure investment.

In keeping with those principles, a group of business, environmental, and neighborhood leaders met to develop proposals for regulatory reform that will support sustainability and economic development in particular. They presented their proposals to the Mayor in a letter in June, 2011. The letter in part states that:

*“The group shares those principles (from Resolution 31282) and believes that sustainable choices can also help foster economic renewal, especially as part of long-term regulatory reform.”*

In response to the group’s ideas for immediate changes to get people back to work and jump-start development by simplifying regulations, the Mayor is proposing amendments to the Land Use Code (Title 23) and Environmental Policies and Procedures (Chapter 25.05), as summarized below:

#### **Encourage Home-Based Businesses**

- Allow property owners to conduct home-based businesses (home occupations) in an accessory structure, as long as impacts are avoided on other properties
- Allow exterior alterations, consistent with zone standards
- Allow advertising on the internet, but continue with the current practice of requiring customer visits by appointment only
- Allow up to 2 non-resident employees (currently limited to one), and allow more flexibility for weekday deliveries with limits focused on heavy vehicles

#### **Expand Options for Accessory Dwelling Units (ADUs)**

- Allow detached ADUs on through lots (lots that front two streets), in locations most comparable to rear yards. Allow more flexibility for the height of detached ADUs on sloping sites

- Clarify that ADUs are allowed in various housing types (including townhouses, rowhouses and in housing in NC zones)

#### **Concentrate Street-Level Commercial Uses in Pedestrian (P)-Zones**

- Focus street-level commercial use requirement in Pedestrian (P) zones, to support walkable districts, while increasing development flexibility at the street level elsewhere
- Allow greater flexibility on approximately 82% of Commercial (C) & Neighborhood Commercial (NC) zoned frontage on arterials throughout the city, compared with the current requirement for predominantly commercial uses on all arterial frontages.

#### **Allow Small Commercial Uses in Certain Multifamily Zones**

- Allow ground-floor commercial uses in Lowrise 2 and 3 zones that are within urban centers or station area overlays (with the same permitted uses and standards as in Midrise and Highrise zones)

#### **Expand Temporary Uses**

- Modify standards to more easily allow vending carts in Lowrise 2 and 3 zones in urban centers and station areas, and in Midrise and Highrise zones
- Extend intermittent uses, such as farmers markets, from 2 days to 3 days/week
- Extend temporary use permits from 6 months to up to one year and convert these reviews to a non-appealable Type 1 permit (rather than Type 2 appealable permit)

#### **Reduce and Eliminate Some Parking Requirements**

- Allow more flexibility for the market to determine parking requirements in locations outside Urban Centers and Station Areas (where parking requirements have already been eliminated) that are within ¼ mile of good transit service (at least 15 minute headways); no minimum parking requirement for residential or non-residential uses
- Define minimum parking requirements for major institutions consistent with other nonresidential uses in urban centers

#### **Allow More Flexibility in Height Measurement**

- Allow the option in South Lake Union to use either the existing height measurement technique or the average grade level technique as in multifamily & commercial zones

#### **Change Environmental (SEPA) Review Thresholds**

- Encourage infill residential and mixed-use growth in urban centers & station area overlays by increasing environmental review thresholds to 200 or more dwelling units (250 in Downtown Urban Center), and 75,000 sq. ft. for commercial uses in mixed-use development
- Codify SEPA conditioning authority for transportation analysis and mitigation in the Land Use Code
- Clarify the relationship of code amendments to the State's RCW 43.21C.420, with regard to appeals of certain environmental documents

#### **Miscellaneous**

- Signage provisions for temporary uses in any zone, for up to 32 square feet of signage in the aggregate.
- Correction of inadvertent errors and omissions from recent ordinances, addressing topics including demolition of housing, parking for multifamily development for the elderly, and certain master use permit decision types.

## BACKGROUND

The City has already amended the Land Use Code several times since 2007 to help improve the local economy. This includes legislation:

- Extending the life of Master Use Permits;
- Permitting active uses on vacant and underused lots;
- Allowing temporary park and ride lots for light rail parking; and
- Allowing mobile food vending.

The current proposal is consistent with these other efforts. The desired outcomes of this proposal are to reinforce and improve Seattle's greatest assets and create a community that is more vibrant, in terms of:

- An invigorated and sustainable economy that encourages innovation;
- An open environment that fully supports investment and entrepreneurship;
- Safe, walkable, and livable neighborhoods;
- Land use rules that support accessible and efficient transit systems;
- A wide array of desirable and affordable housing options; and
- A high-quality sustainable natural environment.

This proposal helps people weather the difficult economy in three important ways:

***1) Gets people back to work - encourages entrepreneurship and new business development:***

The proposal helps people who are unemployed to re-enter the workforce by working from their own home or other structures on their single family zoned property. In addition, the economy is evolving toward creating new enterprises that begin as sole proprietors or small partnerships and grow into large employers over time. The proposal is to make the home occupation rules more flexible to accommodate these startups and encourage their growth within appropriate limits for a business that is still incidental to the residential use. Also, enabling temporary uses, other small business ventures such as "pop-up" retail, and other commercial uses in certain multifamily zones in urban centers and station areas will encourage economic growth and help enliven areas of significant growth and transportation investment.

***2) Promotes flexibility in the Land Use Code to foster innovation, improve efficiency and eliminates unnecessary reviews:***

By allowing more diverse mixes of uses in multifamily zones, and otherwise providing more flexibility and choice for developers in how to design their buildings in commercial zones, the proposal would encourage new building investments that are more innovative, efficient and in line with today's needs. By focusing environmental review according to the State Environmental Policy Act (SEPA) only on projects that have the potential to adversely impact the environment, we will further encourage new growth and infill development in urban centers and station areas where it is best able to be accommodated. In these areas the City would continue to make use of

the other detailed codes and processes already in place to mitigate impacts, and benefit from other recent programmatic SEPA impact studies that effectively fulfill environmental review purposes.

***3) Jumpstarts new housing opportunities - encourages new investment in affordable housing:***

The proposal enables detached accessory dwelling units to be built in a greater variety of residential lots across the city, in some cases with a more flexible height envelope. This will encourage development of housing that is more affordable, providing more options for households while continuing to promote development that is a good fit in neighborhoods and jobs in the community.

## **ANALYSIS**

### **Encourage Home-Based Businesses**

The proposal updates rules addressing home-based businesses to recognize and encourage the emerging trend of small business startups in the home that will grow and meaningfully contribute to area employment and economic growth. Home-based businesses are permitted as an accessory use subject to the standards of Section 23.42.050 in the Land Use Code and the standards of the applicable zone. Home-based businesses are currently allowed wherever residential use is permitted (for example in single family and multifamily zones and for the residential portion of mixed-use development in commercial and downtown zones).

The amendments would allow more flexibility for home-based businesses, as follows:

- Allow them to be located in any structure on a property (currently home occupations are only allowed in the main home or in an accessory dwelling unit);
- Allow additions and alterations to structures, as long as the standards of the applicable zone are met (the intent is to maintain the current approach of helping to ensure limited visual evidence of the occupation, generally, as observed from the exterior of the structure(s), while clarifying that new construction is controlled by the standards of the zone);
- Allow them to advertise the location of a home-based business (no advertising is currently allowed, even on the internet);
- Allow up to two non-resident employees (one is currently allowed);
- Allow weekday deliveries without limits except on heavy vehicles (currently deliveries are limited to two per day during the week and prohibited during weekends and holidays); and
- Clarify that customer visits are by appointment only.

The proposal to allow advertising is essential to attracting customers and growing a business in the local and broader marketplace. In many cases, customers may be served electronically without a need to visit the business location. Allowing the business to employ up to two non-residents will give flexibility for a business to grow while it also strengthens our local economy by supporting city residents' livelihoods. The current limits on deliveries are overly strict for a city environment, even in single-family neighborhoods where a variety of deliveries are made on

a regular basis (dairy, groceries, parcels, etc.). All of these elements would help foster a more predictable and supportive environment for small businesses to start and grow in homes.

Home-based businesses will continue to be required to avoid creating spillover effects on adjacent properties such as odors, dust, light/glare, excessive noise, substantial traffic or other similar impacts to adjacent properties. Overall, the several proposed code clarifications will reasonably enhance the ability for home businesses to start and operate while also making the standards easier to use and enforce.

### **Expand Options for Accessory Dwelling Units (ADUs)**

The proposal would improve the Land Use Code’s flexibility to accommodate accessory dwelling units, thus providing more opportunity for affordable housing to be creatively built across the city. The amendments would:

- Allow backyard cottages (detached accessory dwelling units) on “through lots” – those with opposite ends bordering on two streets — in the yard that is most like a rear yard;
- Adjust height limits for backyard cottages, which overly restrict height in certain circumstances such as sloping back yards; and
- Clarify that certain multifamily housing types such as rowhouses and townhouses may include accessory dwellings within them, to provide additional housing options.

The proposal adds “through lots” as eligible for construction of backyard cottages. While they typically can be categorized as having “front” and “back” yards based on surrounding development patterns, the current code classifies both yards as “front” yards. The proposal is to allow a cottage to be located in the yard that functions most like a rear yard.

Another proposed change would remove a limitation on the height of a backyard cottage to be no more than 15 feet higher than the height of the primary house. Heights for backyard cottages would still be limited to 15 to 23 feet, depending upon the width of the lot and the roof type. The current limitation tied to the height of the primary house penalizes the siting of cottages on lots where the rear yard slopes up from where the primary house is located. In addition, many existing primary houses are lower than the 30 feet allowed in the zone, which leads to an overly restrictive height limit for backyard cottages. Review of DPD’s 2011 annual report on backyard cottage development indicates that the more restrictive height limit provision is of limited use because most cottages are generally built in scale with the existing houses, even when the cottage is built above a garage.

In addition, the proposal would clarify the code’s definitions of townhouses and rowhouses to allow for an ADU to be contained within each unit of such a structure. Amendments are necessary to properly distinguish those housing units from the principal housing unit within the code’s definitions, and to authorize them on lots, including those in “unit lot subdivisions.”

While these changes would be applicable only to a relatively limited number of lots, they will enable more housing development and investment in neighborhoods, particularly to encourage and achieve more affordable housing choices to serve households at many income levels.

### **Concentrate Street-level Commercial Uses in Pedestrian (P) Zones**

The City has designated numerous (approximately 40) pedestrian “P” zone overlay districts that have significant value as current or future pedestrian-friendly environments. These areas are neighborhood commercial centers where ground-floor commercial uses and pedestrian-oriented development standards (transparency requirements, blank wall limits, etc.) are required to help maintain active street fronts. Consistent with neighborhood plans, the commercial use requirement at street level would also continue to apply within the Bitter Lake and Lake City Urban Villages, and would continue in NC1 zones and commercial zones with height limits of 85 feet or higher.

The proposal provides more flexibility in ground-floor uses in other non-pedestrian designated commercial areas. The proposed removal of the restrictive ground-floor use rules (requiring commercial uses along 80% of street-level facades) will benefit approximately 82% of the city’s commercial-zoned property frontage along arterials. This should increase the economic feasibility and attractiveness of many properties for infill residential development, where the market for commercial currently may not exist. Currently, the ground-floor commercial use requirement applies extensively across the city, regardless of a property’s economic viability for such spaces. The effect in some neighborhoods has been commercial spaces that sit vacant or underused. The proposal allows more flexibility to respond to the market and the specifics of a particular location, and will also improve economic feasibility to develop by allowing for more cost-efficient and space-efficient building designs.

Development standards for street-level uses, including those that apply to commercial uses, live-work spaces, and residential uses, will continue to apply, ensuring visually interesting and engaging streetscapes. Standards for live-work spaces, such as 13-foot ground floor ceiling heights, will continue to ensure that such spaces can transition to fully commercial spaces if the market demands.

### **Allow Small Commercial Uses in Certain Multifamily Zones**

The proposal would promote mixed-use development in certain Lowrise 2 and Lowrise 3 (LR2 and LR3) zones in urban centers and station area overlay districts by allowing small commercial uses to locate at the ground floor of buildings. This would be similar to the current allowances in Midrise (MR) and Highrise (HR) zones. The proposal is intended to continue to emphasize the residential character, but allow greater flexibility for a mixing of uses, adding to the vibrancy of areas where future growth and infill development is anticipated. This would facilitate access to goods and services without the need to drive.

The amendments would allow more flexibility for commercial uses to be located in multifamily zones as follows:

- Allow compatible commercial uses at street-level in LR2 and LR3 zones in urban centers and Station Area Overlay Districts: retail sales and service, business support services, office, restaurant, medical services, food processing, craft work and live-work uses, and outdoor general retail sales from carts, vehicles or temporary structures, including mobile food vending. Allow commercial uses in MR zones throughout the city (current provisions limit commercial uses to MR zoned lots that are within 800 feet of a neighborhood commercial zone); and
- Apply a maximum size per business establishment of 4,000 square feet, except 10,000 square feet for a multi-purpose retail sales use (grocery or drug store), the same as in Midrise and Highrise areas.

The proposal expands upon Seattle's longstanding use of zoning to encourage mixed-use communities with an active pedestrian-orientation, particularly in areas well served by transit. While the neighborhood commercial zones (and to a lesser extent, MR and HR zones) have been the primary places for mixed-use development, LR2 and LR3 zones can also contribute to the evolution of preferred growth centers into more interesting and active places that also support small businesses and entrepreneurs. Ideally, the added flexibility to design innovative new forms of mixed-use development will foster the near-term construction of varied new developments, small and large, that will provide exciting new living and shopping opportunities.

### **Expand Temporary Uses**

Business startups and micro-businesses are playing an increasingly important role in today's economy. The City's rules are evolving, but are not currently flexible enough to easily accommodate events and temporary uses that would add to the community and would support entrepreneurial opportunities. Adjustments that would ease the process of obtaining intermittent or temporary use permits would foster opportunities for those wishing to create and promote new products and services. Such changes would provide greater flexibility in permitting, while still providing for DPD review to help ensure that such activities fit in with their surroundings. Provisions for temporary or intermittent uses are contained in Section 23.42.040 of the Land Use Code. Two types of uses are addressed in the proposal: intermittent uses, such as farmers' markets; and temporary uses (such as food vending and retail kiosks).

The amendments would allow more flexibility for small businesses as follows:

- Allow for a simpler non-appealable (Type I) permit for temporary uses lasting more than four weeks in length, up to one year (currently these temporary use permits are appealable (Type II) and have a maximum term of six months);
- Allow intermittent use permits for up to three days per week (rather than two days);

Providing for longer temporary use permits (up to one year) would empower individuals to try a business venture, starting small, perhaps filling a niche that is not well-served. For example, fruits and vegetables could be sold from temporary structures that could locate closer to area

residents, serving areas where fresh produce is not well-stocked due to scarcity of traditional grocery stores. The longer timeline proposed for temporary uses could make these ventures more attractive. This, in combination with the proposal to allow small commercial activities in Lowrise 2 and 3 (LR2 and LR3) zones within urban centers and station area overlay districts, could result in the creation of newly enlivened districts within these areas where denser growth and vital neighborhoods are already encouraged by the City's growth policies.

### **Reduce and Eliminate Some Parking Requirements**

The amendments would allow more flexibility for developers to provide parking, in amounts tailored to the intended users of new development, as follows:

- Extend no-minimum-parking requirements for residential and non-residential uses (currently applicable to Urban Centers and Station Areas) to all other areas where frequent transit service is available within ¼ mile.
- Extend a similar no-minimum-parking requirement to Major Institution properties located in urban centers or station areas.

The proposed reductions in minimum parking levels would recognize the benefits provided by improved transit service for residents to move around the city conveniently, especially in those areas where transit service is frequent. As fewer residents in urban centers own an automobile over time, and more residents can fulfill their needs with local services, there will be less demand for large quantities of parking for residences, businesses and places of employment. Recent national survey data shows that automobiles are owned and used less frequently by younger households, as well as households in Seattle's growth areas and in areas well served by transit.

Due to these trends, the City's minimum parking requirements should be reduced and made more flexible to allow parking provision as the market demands. These efficiencies will also be instrumental in encouraging new development. Due to the high costs of constructing new parking spaces (roughly \$30,000-\$40,000 per space) and the challenges it poses in designing new buildings on in-city properties, loosening parking minimums will provide significant added flexibility and cost savings in future development, thereby encouraging new development and investment.

Major Institutions located in urban centers and station areas are also proposed to be able to determine the most appropriate parking requirement based on the needs of their employees and clients, and in light of frequent transit service in these areas. Particularly where land and institutional development opportunities are already constrained by their property and their master plan, a Major Institution in an urban center should not be required to provide additional parking that is not really needed and will be increasingly expensive to provide within new development sites. These Major Institutions are subject to transportation management program (TMP) requirements, which are already effective in influencing the travel choices of institutional employees. The institutions' Master Plans do not include predefined amounts of parking to serve future development projects, so no conflicts with Master Plans are likely. Taken together, the ability to provide less parking based on anticipated need rather than a set code requirement,



continued TMP expectations, parking pricing for on-street and off-street parking, the continued on-street parking methods (including metering and residential parking zones), and availability of alternative means of transportation, will be effective in preventing significant spillover parking.

### **Allow Flexibility in Height Measurement**

The amendment would allow for an alternative height measurement technique (currently used in multifamily and commercial zones) for development in the South Lake Union Urban Center. This would allow a choice between two height measurement techniques, to avoid inadvertently restricting building bulk due to localized slope conditions. The effect would be to allow more efficient use of permitted floor area for intended residential or non-residential uses rather than being overly restricted in design by the other height measurement technique.

### **Change Environmental (SEPA) Review Thresholds**

Simply stated, the State Environmental Policy Act (SEPA) review threshold (“categorical exemption” level) is the level above which significant adverse environmental impacts are anticipated, which means that a SEPA determination must be made. In the past, Seattle and other jurisdictions counted on SEPA to address topics for which codes did not provide sufficient protections.

As the City’s codes have evolved in recent decades, there is less need to employ SEPA authority because other codes effectively mitigate the potential for significant impacts. Relevant policies and codes include: comprehensive plan policies, environmental critical areas rules, shoreline rules, grading and drainage codes, stormwater regulations, parking codes, design review, land use/zoning code, noise codes, transportation mitigation programs, energy code, building code and historic preservation policies.

In addition, Seattle’s planning efforts are increasingly emphasizing actions that promote infill development in designated growth centers, as favored by growth management objectives in the Comprehensive Plan. In recent years, the State Legislature also has produced a number of bills to streamline SEPA review, adopting legislation in 2003 that allows exemption of infill residential and mixed-use development in urban growth areas from SEPA review. Seattle’s urban centers and station areas meet the criteria for this exemption opportunity, and raising SEPA thresholds, as was more modestly done in 2008, is warranted.

The proposal is to exempt from SEPA residential and mixed-use developments up to 200-250 dwelling units in Urban Centers and Station Areas. Similarly, the proposal is to exempt non-residential space up to 75,000 square feet in size when part of a mixed-use development. These threshold levels would reorient SEPA review to continue to identify sizes of projects that might realistically generate adverse environmental impacts, thus creating a need for a SEPA determination and possible impact-mitigating measures. The proposal would represent a better interpretation of where such impacts are possible in those urban center and station areas where the City’s comprehensive plan policies and strategies already encourage the most growth to occur. The SEPA thresholds would be as shown below.

<b>Exemptions for Residential Uses</b>			
	<b>Number of Exempt Dwelling Units</b>		
<b>Zone</b>			<b>For additions, modifications, demolitions, or replacement of non-landmarks that may meet landmark criteria</b>
	<b>Outside of Urban Centers and SAOD</b>	<b>Within Urban Centers or SAOD</b>	
SF, RSL	4	4	4
LR1	4	<del>((6))</del> 200	4
LR2	6	<del>((30))</del> 200	4
LR3	8	<del>((30))</del> 200	4
NC1, NC2, NC3, C1, C2	4	<del>((30))</del> 200	4
MR, HR, SM	20	<del>((30))</del> 200	4
Downtown zones	Not Applicable	<del>((80))</del> 250	4
Industrial zones	4	4	4
SAOD = Station Area Overlay Districts.			

<b>Exemptions for Non-Residential Uses</b>			
<b>Zone</b>	<b>Exempt Area of Use (square feet of gross floor area)</b>		
	<b>Outside of Urban Centers and SAOD</b>	<b>Within Urban Centers or SAOD</b>	<b>For additions, modifications, demolitions, or replacement of non-landmarks that may meet landmark criteria</b>
SF, RSL, LR1	4,000	4,000	4,000
<u>LR2, LR3</u>	4,000	<del>((4,000))</del> 12,000 or 75,000	4,000
MR, HR, NC1, NC2, NC3	4,000	12,000 or 75,000	4,000
C1, C2, SM zones	12,000	12,000 or 75,000	4,000
<u>Industrial zones</u>	<u>12,000</u>	<u>12,000</u>	4,000
Downtown zones	Not Applicable	12,000 or 75,000	4,000
SAOD = Station Area Overlay Districts.			

Research of Seattle development from 1995-2010 confirms that permitting decisions have used SEPA's impact mitigation authority primarily for incidental purposes or have referenced other construction noise and transportation code requirements. Review of extensive numbers of residential and mixed-use development projects shows that controls on construction activities were the most frequent topic of mitigation measures, but that other categories of long-term environmental impacts were only incidentally or rarely identified as warranting mitigation, within the range of project sizes that are affected by this proposal.

The research also indicates that approximately 35 to 40 development projects per year could benefit from the proposed SEPA threshold levels. This is interpreted to be the mid-range of development project sizes in Seattle – the proposed thresholds would still be required for the largest developments. These changes would likely provide an incentive for infill development within these growth areas, due to a reduction in permitting costs, times and uncertainty risks. Such projects would still be subject to Design Review processes in nearly every case, which would more appropriately help address design-related concerns.

Transportation impacts are the most apparent type of impact evaluation that could warrant continued review, due to the potential for individual future developments' contributions to local traffic congestion and a possible need for future conditioning. As a result, the proposal includes the codification of the City's ability to continue to require a transportation study that would examine traffic generation and other non-automobile transportation factors. These new rules would continue to allow conditioning of future developments to mitigate identified adverse effects, and would continue to allow an applicant to voluntarily participate in traffic mitigation payment programs that currently apply in the Northgate and South Lake Union areas.

Another reason for the SEPA thresholds to be adjusted is that Seattle has also expanded its efforts to evaluate the impacts of future growth at a subarea level, which provides a more comprehensive perspective about the effects of growth. Examples from the past 10 years include environmental impact statements for broad rezones of Downtown and South Downtown, Northgate and South Lake Union. These evaluations provided a more holistic perspective on growth impacts and fit better with current local and regional growth management perspectives that are advanced by our Comprehensive Plan.

### **Clarify SEPA Procedural Rules**

The proposal also includes amendments to clarify the City's SEPA appeal rules in relation to State Rules in RCW 43.21C.420. The intent of these amendments is to make procedural requirements clearer, and eliminate risks of improper procedural delays.

### **Miscellaneous**

#### **Signs for Temporary Uses**

The proposal includes signage provisions for temporary uses in any zone, including mobile vending vehicles, which are for up to 32 square feet of signage in the aggregate. These are needed because current rules on "temporary signs" do not address signs for temporary uses.

### **Correct Inadvertent Errors and Omissions**

Various minor amendments are included to restore Code language that was inadvertently omitted in recent ordinances. They would restore details relevant to demolition of housing, parking for multifamily development for the elderly, and certain master use permit decision types, and would improve the code's accuracy and consistency.

### **RECOMMENDATION**

The DPD Director recommends adoption of the proposed amendments. This proposal would help further the principles presented in City Council Resolution 31282 that are shared by a group of business, environmental, and neighborhood leaders who met to develop this proposal for regulatory reform. This will help support sustainability and economic development consistent with the growth strategies in the City's Comprehensive Plan.

The proposed code amendments are anticipated to be instrumental in spurring innovation, getting people back to work, helping to jump-start housing development by simplifying regulations, and lowering hurdles for families who need jobs in these economic times. The proposals are intended to expand housing production and result in a greater variety of affordable housing opportunities, by simplifying rules, increasing flexibility, and significantly improving the cost efficiency and ease of new development.